

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6101 )  
Petitions for renewal of Certificates of )  
Public Good held by Mountain Cable )  
Company and Better TV, Inc. of Bennington, )  
both d/b/a Adelphia Cable Communications )

**STIPULATION AND AGREEMENT**

This Stipulation and Agreement relating to Public, Educational and Governmental access (“PEG Stipulation”) is made and entered into this 20<sup>th</sup> day of November, 2003 between the Vermont Department of Public Service (“Department”), by and through the Director for Public Advocacy and its undersigned counsel, and Better T.V., Inc. of Bennington, FrontierVision Operating Partners, L.P., Adelphia Cable Corp. f/k/a Harron Communications Corporation, Lake Champlain Cable Television Corporation, Mountain Cable Company, L.P., Multi-Channel T.V. Cable Company, Richmond Cable Television Corporation and Young's Cable TV Corp., all d/b/a Adelphia Cable Communications (“Adelphia” or “Company”), by and through its undersigned Vice President, Law and Public Policy, (the Department and Adelphia collectively “the Parties”).

**RECITALS**

WHEREAS, on April 28, 2000 and July 19, 2000, in Dockets 6101/6223, and on June 6, 2001 in Docket No. 6165, the Public Service Board (“Board”) issued Final Orders and Certificates of Public Good (“CPGs”) granting renewal of Adelphia’s Vermont franchises and specifying certain conditions Adelphia is required to comply with during the eleven-year term of the renewed franchises;

WHEREAS, in the April 28, 2000 Order in Dockets 6101/6223, the Board required Adelphia to make not more than ten percent of its total bandwidth available for Public Educational, and Governmental (“PEG”) access purposes;

WHEREAS, on August 18, 2000, Adelphia commenced suit in the United States District Court for the District of Vermont, Civil Action No. 1:00-CV-298, against the Public Service Board seeking review of certain of the specific CPG conditions imposed on Adelphia by the Final Orders and CPGs issued in Dockets 6101/6223, including the PEG access provisions and that action remains active and pending;

WHEREAS, in the interest of resolving the currently outstanding issues in the above-referenced dispute that are active and pending in Dockets 6101/6223 and in the federal court case, Civil Action No. 1:00-CV-298, and in the ultimate interest of serving the public, the Parties assert that an appropriate settlement of this matter without protracted litigation is in the best interests of the Department, Adelphia and the public; and

NOW THEREFORE, in consideration of the mutual promises and representations contained herein, the parties agree and stipulate as follows:

### TERMS AND CONDITIONS

1. The Parties agree that all Adelphia's Vermont CPGs issued to Better T.V., Inc. of Bennington, FrontierVision Operating Partners, L.P., Adelphia Cable Corp. f/k/a Harron Communications Corporation, Lake Champlain Cable Television Corporation, Mountain Cable Company, L.P., Multi-Channel TV Cable Company, Richmond Cable Television Corporation and Young's Cable TV Corp., ("Adelphia's CPGs") will be modified, only as specified in the following subparagraphs A-H below, relating to PEG access. References to specific CPG paragraphs are to CPGs issued in Dockets 6101/6223 and 6165, and all other Adelphia CPGs shall be modified, as necessary, to incorporate the following:

A. Adelphia's CPG ¶ 33 shall be replaced with the following:

"Adelphia shall create and maintain a plan for reasonable public access for all of its headends and former headend areas ("the Plan") beginning with its 2004 annual filing. The Company shall keep a current Plan on file with the Public Service Board. The Plan shall provide for public access appropriate to each system headend, and former headend where headends are consolidated, in light of the current technology and the economics of each system. The Plan shall address each of the criteria set forth in Board Rule 8.421, as amended, and, without limitation, shall include:

- a. A description of cable-system capacity assigned to PEG access (including PEG channels) and a projection of the future need for capacity over the next five years;
- b. A plan for the activation or deactivation of remote feed drops;
- c. A plan for sharing of PEG content with other systems via interconnection consistent with subparagraph G.

In those service areas where an administrative entity as defined under Board Rule 8.430 exists, Adelphia and the administrative entity should agree on an appropriate Plan for that service area. Failure to file a Plan will trigger a payment from the Bond of \$1,000 per day per Plan until the Plan is filed."

B. The following paragraph shall be added to Adelphia's CPGs:

"Adelphia shall designate and administer channels for PEG access and use that meet the requirements of Board Rules 8.400 through 8.463."

C. The following paragraph shall be added to Adelphia's CPGs:

“Adelphia shall provide to Access Management Organizations ("AMO") an ability to originate as many simultaneous, live PEG programs on any part of its system as there are forward PEG channels on that part of the system; provided, however, that Adelphia shall not be obligated to originate any quantity of simultaneous, system-wide broadcasts that exceeds the number of forward PEG channels activated in that part of the system with the smallest quantity of activated forward PEG channels. Refusal will trigger a payment from the Bond of \$10,000 per system per month. "Refusal" shall not include periods of reasonable negotiation nor submission by the Company of a request for a determination whether a particular allocation is reasonable.”

D. Adelphia’s CPG ¶ 32 shall be replaced with the following:

“Adelphia shall provide fiber-optic or coaxial-cable drops, capable of two-way service, to every school, library, and PEG-access studio and to at least one municipal building in every municipality in which it is obligated to provide cable service, upon request of the school, library, PEG entity, or municipality. Adelphia may provide the two-way service through a drop that is separate from any drop used to provide cable television service or high-speed Internet access service to that entity. Adelphia shall provide and activate each requested drop within 6 months of receiving a request from the respective school, library, AMO or municipality, provided however Adelphia is able to obtain all necessary approvals and permits pursuant to Rule 3.700. This condition does not require Adelphia to provide drops to buildings that are neither passed by nor located within 500 feet of cable plant unless an entity is willing to reimburse Adelphia for the incremental cost of the non-standard installation. Adelphia shall provide basic cable service at each coaxial drop, and shall provide an aerial drop (standard installation) at no charge. Upon request, Adelphia shall provide an entity described in this paragraph with a non-standard installation, provided the entity pays the difference in cost between the standard and non-standard installation. Non-standard installations include underground installation or installation to an entity located more than 500 feet from cable plant. Failure to provide this access capability will trigger a payment from the Bond of \$1,000 per day per facility not served until the facility is served.”

E. Adelphia’s CPG ¶ 41 shall be replaced with the following:

“Adelphia shall, by May 28, 2004, inform every municipality, school, library and AMO in every system subject to this Certificate of the opportunity to have two-way capable drops placed at the locations described in paragraph 32 and offer to meet to: (1) determine each entity's need for two-way capable drops, (2) in the case of municipalities, discuss the location(s) of such drop feed points within each municipality, and (3) to negotiate the specific arrangements necessary for installation and maintenance of such drops. If requested by the qualifying entity, at least one two-way capable drop shall be installed at that entity’s premises as soon as practicable, but not more than 6 months after

receiving a request from the respective school, library, AMO or municipality, provided however Adelphia is able to obtain all necessary approvals and permits pursuant to Rule 3.700. Adelphia's obligation to install a two-way capable drop in response to a request from an eligible entity shall be ongoing. Commencing on August 1, 2004, and continuing quarterly until installation is completed, Adelphia shall submit a report to the Board and the Department on the status of the installation of two-way capable drops, including the status of negotiations with the municipalities, schools, libraries and AMOs with respect to such installation. Failure to inform each such entity of the opportunity to have a two-way capable drop placed at eligible locations will trigger a payment from the Bond of \$10,000 per entity. Failure or refusal to install a two-way capable drop at an eligible location upon request of an eligible entity will trigger a payment from the Bond of \$1,000 per day per location until the location is served. "Failure" or "Refusal" shall not include periods of reasonable negotiation nor submission by the Company of a request for a determination whether installation and provisions for maintenance and use of a particular two-way capable drop are reasonable."

F. The following paragraphs shall be added to Adelphia's CPGs:

1. "Adelphia, or its duly designated agent, shall develop and submit a proposal within the time provided in an RFP, or if no time is specified, then within 90 days, in response to any qualified request for proposals ("RFP") issued by a state or local government agency, educational institution (accredited elementary schools, secondary schools, colleges and universities, and libraries open to the general public), or educational or governmental access entity ("institutions") seeking an Institutional Network for voice, video, or data within its franchised area. An RFP should permit a minimum of 90 days for response and shall be deemed qualified if it contains the following information:

- a. the specific locations to be linked (which may include interconnection points with other cable systems or telecommunications providers to be determined later);
- b. the desired transmission capacity or amount of dark optical fiber;
- c. a description of the desired applications to be operated over the institutional network.

Adelphia or its duly authorized agent shall not be required to construct dedicated facilities for institutional networks, where facilities shared with other services and networks meet the requirements of the institutions. Fulfillment of an RFP involving dark fiber shall not require interconnection of that dark fiber with Adelphia's hybrid fiber-coaxial grid or with any of the Company's headends, nor shall the institution or the users have access to or rights in those headends. It is understood that Adelphia will, at most,

lease dark fiber but not sell it. It is understood that Adelphia may not fulfill an RFP requiring dark fiber if the necessary labor and/or material is unavailable or is not available on customary and satisfactory terms.

Adelphia's obligation with respect to this subparagraph will be waived in the event, and only to the extent, that Adelphia can not comply due to events beyond its control such as Force Majeure events as described in this subparagraph. Adelphia shall diligently perform its obligations under this subparagraph, but conditions may arise that prevent or delay its performance because of causes beyond Adelphia's reasonable control including, without limiting the generality of the foregoing, flood, earthquake, hurricane, ice storm, blizzard, fire, explosion, war, riot, civil disturbance, labor disturbance, strike, sabotage, and restraint by court that, by exercise of due diligence and foresight, Adelphia could not have been expected to avoid. If Adelphia is rendered unable to fulfill any obligations by reason of such causes, it shall be excused from performing for the time and to the extent it is prevented or delayed from so doing, but shall exercise due diligence to correct such inability with all reasonable dispatch."

2. "Adelphia's, or its duly designated agent's, response to a qualified RFP shall include the terms and conditions, including but not limited to rates, tolls, or charges, under which it would make available the institutional network to the requesting entity. Charges for institutional networks shall not exceed Adelphia's, or its duly authorized agent's, fully-allocated costs, including a rate of return of 11.25%, to provide the network."

3. "Adelphia, or its duly designated agent, shall not charge institutions for construction or extension of facilities used for institutional networks that are required to meet other obligations under its Certificate, or provide services to other customers, either directly or through an affiliate. Adelphia, or its duly authorized agent, may charge institutions a proportional share of line extensions not otherwise required that will be used for institutional networks but may also be used to serve cable customers."

4. "If Adelphia submits a proposal in response to an RFP for an Institutional Network in accordance with [paragraph F.1 herein], and said proposal is accepted by the requesting entity, then Adelphia shall be obligated to provide service on the terms of the RFP or pursuant to the contract with the entity."

5. "Adelphia, or its duly designated agent, shall respond 24 hours a day, 7 days per week to outages or degradation of service below contracted service for institutional networks. If a reported problem with an Institutional Network cannot be corrected immediately, Adelphia staff, or its duly designated agent's staff, shall promptly explain the status to the institution in person or via phone and provide the approximate time in which the problem will be resolved. An Adelphia representative, or its duly designated

agent, will verify with the institution that services are working either in person or via telephone before the trouble call is closed out. Adelphia or its duly authorized agent shall provide institutions to which it provides institutional networks with a local manager to whom it can escalate unresolved problems.”

6. “Failure or refusal to comply with any provisions of this paragraph [F.] will trigger a \$1,000 per day payment from the Bond until Adelphia complies with the applicable provision.”

G. Adelphia’s CPG ¶ 27 shall be replaced with the following:

“Adelphia must provide a statewide Public, Educational, and Governmental access channel, although it may be that this commitment should be met through the provision of interconnection bandwidth rather than as a viewable channel. Details of this provision should be determined through negotiation or a later proceeding. Negotiations should be open to all Public, Educational, and Governmental access entities wishing to take part. Adelphia shall provide the statewide channel once the upgrade is completed and the details for operation of the channel have been decided. Adelphia shall offer to interconnect, directly or indirectly, with the Vermont cable systems operated pursuant to Certificates of Public Good to exchange PEG-access programming among the companies’ systems. Said interconnection shall be subject to the parties reaching acceptable commercial terms concerning ownership and apportioning the cost of any facilities necessary to interconnect Adelphia’s and other cable companies’ networks. Failure to fulfill this commitment will trigger a payment from the Bond of \$10,000.”

H. Adelphia’s CPG ¶ 25 shall be deleted.

2. A. As soon as practicable, but not later than twenty (20) business days of execution of this PEG Stipulation, Adelphia shall submit this PEG Stipulation to the Bankruptcy Court and shall exercise best efforts to obtain authorization to enter into this PEG Stipulation. This PEG Stipulation shall not be effective until an order of the Bankruptcy Court is entered authorizing Adelphia to enter into this PEG Stipulation. The Parties agree that should the Bankruptcy Court fail to approve this PEG Stipulation in its entirety, unless agreed to otherwise by the Parties, this PEG Stipulation shall not: (i) be construed by any Party, tribunal, or other entity as having precedential impact on any testimony or positions which may be advanced in these proceedings; (ii) constitute any part of the record in any proceedings; (iii) be admissible as evidence for any purpose; and (iv) be used for any other purpose.

B. Neither this PEG Stipulation nor anything herein shall constitute or be deemed to be an assumption or rejection of the CPGs (as subsequently amended and amended herein) pursuant to section 365 of the Bankruptcy Code. Adelphia expressly reserves the

right to assume or reject any or all of the CPGs in its bankruptcy case, and all rights of the Parties are reserved with respect thereto, including, but not limited to, whether the CPGs are executory contracts pursuant to Section 365 of the Bankruptcy Code and the Department's right to cure costs, if any, upon assumption of any of the CPGs.

3. The Parties jointly move that the Board enter a final order adopting this PEG Stipulation and the companion Stipulation filed of even date herewith in their entirety, without modification, as the full and final resolution of all outstanding issues in Dockets 6101/6223 and 6778 and close those Dockets. The Parties jointly move that Dockets 6656 and 6877 be closed, provided that the issues subject to investigation in those Dockets shall be subject to further review only pursuant to paragraph 11.B of the companion Stipulation filed of even date herewith.

4. The Parties agree that should the Board fail to approve this PEG Stipulation and the companion Stipulation filed of even date herewith in their entirety, the Parties' agreements set forth herein shall terminate, and the Parties shall be placed in the position that each enjoyed in each proceeding addressed herein before entering into the PEG Stipulation. In such event the Parties' agreements in this PEG Stipulation shall not be construed by any Party, tribunal, or other entity as having precedential impact on any testimony or positions which may be advanced in these proceedings, shall not constitute any part of the record in these proceedings and shall not be used for any other purpose. In the event the Board conditionally approves this PEG Stipulation and neither party objects, within ten (10) business days, to any conditions imposed by the Board, then the PEG Stipulation as amended shall be deemed approved as if approved in its entirety by the Board.

5. If the Board approves this PEG Stipulation in its entirety, or conditionally and neither party timely objects as provided in paragraph 4, then the Parties waive their rights to appeal the Board's Order under any state or federal law.

6. The effective date of this PEG Stipulation shall be the date on which the Board approves this PEG Stipulation, following approval of the bankruptcy court pursuant to paragraph 2, and subject only to timely objection by the Parties as specified in paragraph 4.

IN WITNESS WHEREOF, each of the Parties executes this PEG Stipulation and Agreement through its duly authorized representative.

Dated at Montpelier, Vermont this 20<sup>th</sup> day of  
November, 2003.

VERMONT DEPARTMENT OF PUBLIC  
SERVICE

By: \_\_\_\_\_

John Cotter, Special Counsel  
Dixie Henry, Special Counsel  
Department of Public Service  
112 State Street, Drawer 20  
Montpelier, Vermont 05620-2601

COUNSEL FOR THE DEPARTMENT

Dated at Andover, Massachusetts this 20<sup>th</sup>  
day of November, 2003.

MOUNTAIN CABLE COMPANY, L.P.  
d/b/a ADELPHIA CABLE  
COMMUNICATIONS AND ALL CABLE  
TELEVISION COMPANIES DOING  
BUSINESS IN VERMONT AS ADELPHIA  
CABLE COMMUNICATIONS

By: \_\_\_\_\_

Mary E. McLaughlin  
Vice President, Law and Public Policy  
Adelphia Communications  
200 Minuteman Road, Suite 102  
Andover, MA 01810

COUNSEL FOR ADELPHIA